

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson
Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 00-186

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. In the treatment clause of SECTION 3, “are” should replace “have been.”
- b. In s. PI 26.02 (1), “The College Board” should be shown in lower case.
- c. The agency may wish to use a direct reference to the “model academic standards” in s. PI 26.02 (13) rather than a statutory reference, since the statutes refer to standards issued by executive order, not the actual standards.
- d. In ss. PI 26.03 (14) and 26.04 (7) (e), “2-year” should replace “2-”.
- e. In s. PI 26.05, “(1)” should be deleted since there are no other subsections.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. The agency might consider changing the term “shall” to “may” in s. PI 26.03 (1) to allow school boards to adopt, if they choose, plans that are not defined in “incremental steps.”
- b. The intended scope of the requirement of s. PI 26.03 (2) is not clear. Is it intended that all elements must be provided in each program? To what extent must the elements be “integrated”?

c. The material in s. PI 26.03 (2) (e) after the first sentence should be moved to another section of the rule or placed in a note. One option would be to use part of a definition of the term in s. PI 26.02 (20) instead of, or in addition to, the use the federal reference “34 CFR 400.”

d. Section PI 26.03 (3) is very ambiguous. The current rule requires that all pupils in grades kindergarten through 12 “shall have access” to an education for employment program. This language has been interpreted to mean that courses have to be scheduled and placed in the curriculum, but not that each pupil enroll or be given instruction in an education for employment program. The revised language stating that the program shall provide to all pupils in grades kindergarten through 12 instruction in specified areas seems to be a significant expansion of the current requirements.

If the agency intends the revision of this provision to create a new requirement for instruction, several issues arise. First, the extent of the expansion is not clearly set forth in either the plain language analysis or in the attached fiscal estimate. Second, the language in s. PI 26.03 (3) refers initially to “instruction,” but later refers to “information,” without clearly distinguishing between the two terms. In addition, the requirement to provide “information” is applicable to pupils “at various grade levels,” a reference that provides very little guidance to districts and boards attempting to formulate plans that will comply with the requirements.

Finally, if the agency does intend to expand the requirements to require that pupils participate, not just be offered an opportunity to participate, then there is a potential statutory authority problem. Section 121.02 (1) (m), Stats., requires only that boards provide access to a program, but does not require participation. The rule, and the proposed revisions, are predicated on this statutory base and it would appear that in order for the revised rule to venture beyond this foundation would require a statutory change to s. 121.02 (1) (m), Stats.

e. The rule in s. PI 26.04 (2) modifies the current requirement regarding staff coordinator of the education for employment program to add a requirement that the person be “certified under s. PI 34.33 (8)” as a vocational educator. It would seem that this additional requirement would be important enough to mention in the plain language analysis of the rule and the fiscal estimate.

f. Although the proposed pupil transcript requirements are tangentially related to the education for employment program, the expansive nature of the new requirements is not readily apparent from the relating clause of the rule or the placement in the administrative code. The agency, therefore, should consider giving these changes greater prominence in the plain language analysis and in material prepared for scheduled public hearings to assure adequate notice is given to interested parties. Clarification should also be given in regard to whether the requirement is intended to be retroactive to cover past graduates.

g. The scope of the requirements regarding follow-up studies in s. PI 26.04 (7) is not clear. For example, how long are graduates to be followed? Do all graduates have to be tracked, or only a representative sample? Depending upon the answers to these questions, the cost of compliance could be substantial or incidental. Without clarification, there is no indication as to the level of detail expected.

h. The agency should give consideration to including an initial applicability section for the revised requirements.